

1 TAMARA BEATTY PETERSON, ESQ., Bar No. 5218
2 tpeterson@petersonbaker.com
3 NIKKI L. BAKER, ESQ., Bar No. 6562
4 nbaker@petersonbaker.com
5 BENJAMIN K. REITZ, ESQ., Bar No. 13233
6 breitz@petersonbaker.com
PETERSON BAKER, PLLC
10001 Park Run Drive
Las Vegas, NV 89145
Telephone: 702.786.1001
Facsimile: 702.786.1002

7 *Attorneys for Defendants Cambrex Charles City, Inc. and
Cambrex North Brunswick, Inc.*

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 H&H PHARMACEUTICALS, LLC, a
11 Nevada limited liability company,

12 Plaintiff,
v.

13 CAMBREX CHARLES CITY, INC.
14 AND/OR CAMBREX NORTH
15 BRUNSWICK, INC.; DOES I through X;
and ROE CORPORATIONS XI through
XX, inclusive,

16 Defendants.

Case No.: 2:16-cv-02946-RFB-VCF

17 **STIPULATION AND ORDER TO AMEND
CONFIDENTIALITY AND PROTECTIVE
ORDER [ECF NO. 21]**

18 Defendants Cambrex Charles City, Inc., and Cambrex North Brunswick, Inc., (collectively,
19 "Cambrex"), by and through its counsel of record, Peterson Baker, PLLC, and Plaintiff H&H
20 Pharmaceuticals, LLC ("H&H"), by and through its counsel of record, Maier Gutierrez &
21 Associates, hereby stipulate and agree, subject to this Court's approval, that the Confidentiality and
22 Protective Order [ECF No. 21] dated August 30, 2017, be amended to permit the parties to produce
23 to each other confidential, proprietary, and trade secret information (the "HIGHLY
24 CONFIDENTIAL INFORMATION") under a heightened confidentiality standard that restricts
25 access to the produced information to outside attorneys and outside experts, and prohibits the
26 employees, officers, or owners of Cambrex and H&H from viewing the opposing party's HIGHLY
27 CONFIDENTIAL INFORMATION. The parties stipulate and agree as follows:

1 1. On September 10, 2018, H&H served interrogatories and requests for production of
2 documents on Cambrex (the "H&H Discovery Requests").

3 2. On October 16, 2018, and beyond, the parties met and conferred regarding
4 Cambrex's objections to the H&H Discovery Requests. Cambrex has identified specific concerns
5 regarding the disclosure of confidential, proprietary and trade secret information ("HIGHLY
6 CONFIDENTIAL INFORMATION") to the employees, officers, and/or owners of H&H, a
7 potential competitor. *See, e.g., Phillips v. General Motors Corp.*, 307 F. 3d 1206, 1211 (9th Cir.
8 2003); *Am. Heavy Moving & Rigging Co. v. Robb Techs., L.L.C.*, No. 2:04CV00933-JCM(GWF),
9 2006 WL 2085407, at *3 (D. Nev. July 25, 2006); *Advanced Semiconductor Prods., Inc. v. Tau*
10 *Laboratories, Inc.*, 3 Fed.R.Serv.3d 1389, 229 U.S.P.Q. 222, 224 (N.D. Cal. 1986); *Everco Indus.*
11 *v. O.E.M. Prods. Co.*, 362 F. Supp. 204, 206, 179 U.S.P.Q. 834, 835 (N.D. Ill. 1973).

12 3. Cambrex has identified further concerns about disclosing this HIGHLY
13 CONFIDENTIAL INFORMATION to H&H in light of the questionable admissibility of this
14 information at trial pursuant to NRS 49.325. *See also* FRE 501.

15 4. Cambrex desires to comply with the H&H Discovery Requests. Given the very
16 sensitive nature of the HIGHLY CONFIDENTIAL INFORMATION, Cambrex desires, and H&H
17 does not object, to produce the information under an amended protective order which restricts
18 access to the HIGHLY CONFIDENTIAL INFORMATION to H&H's outside attorneys and experts
19 in this case, and further prohibits H&H's employees, officers, agents and/or owners from viewing
20 or otherwise accessing the HIGHLY CONFIDENTIAL INFORMATION.

21 5. By producing in discovery HIGHLY CONFIDENTIAL INFORMATION, the
22 parties do not waive any privilege created by NRS 49.325, and do not waive any arguments as to
23 the admissibility of any material so designated.

24 6. The HIGHLY CONFIDENTIAL INFORMATION shall not be used at any
25 deposition, or otherwise disclosed to any persons, other than those permitted by this stipulation and
26 order, except as permitted by further order of the Court.

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1 WHEREFORE, the parties respectfully request that this Court enter an Order amending the
2 Confidentiality and Protective Order [ECF No. 21], to include the following provisions:

- 3 a. The term "HIGHLY CONFIDENTIAL INFORMATION" is Confidential
4 Information or Items (as defined in ECF No. 21) to which access is restricted to
5 Outside Counsel (as defined in ECF No. 21) and Experts (as defined in ECF No.
6 21), provided that such Expert is not a current employee of a direct competitor of a
7 party named in this action, and provided that such Expert has complied with Section
8 VI(2)(c) of the Confidentiality and Protective Order [ECF No. 21];
- 9 b. The employees, officers, agents and/or owners of each party are not
10 permitted to view the opposing party's HIGHLY CONFIDENTIAL
11 INFORMATION.
- 12 c. The term "Protected Material" is revised to include any HIGHLY
13 CONFIDENTIAL INFORMATION.
- 14 d. The protection conferred by this Amended Confidentiality and Protective
15 Order covers not only Protected Material, but also any information copied or
16 extracted therefrom, as well as all copies excerpts, summaries, or compilations
17 thereof, testimony, conversations, or presentations by Parties or Counsel to or in
18 Court or in other settings that might reveal Protected Material.
- 19 e. To designate HIGHLY CONFIDENTIAL INFORMATION in
20 documentary form, including in written responses to discovery requests, the
21 Producing Party shall affix the legend "HIGHLY CONFIDENTIAL –
22 ATTORNEYS' AND EXPERTS' EYES ONLY" on each page that contains the
23 HIGHLY CONFIDENTIAL INFORMATION.
- 24 f. Where the terms of this Amended Confidentiality and Protective Order
25 conflict with the original Confidentiality and Protective Order [ECF No. 21], this
26 Amended Confidentiality and Protective Order shall apply.

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Dated this 31st day of October, 2018.

PETERSON BAKER, PLLC

MAIER GUTIERREZ & ASSOCIATES

By: /s/ Tamara Beatty Peterson
TAMARA BEATTY PETERSON, ESQ.
Nevada Bar No. 5218
tpeterson@petersonbaker.com
NIKKI L. BAKER, ESQ.
Nevada Bar No. 6562
nbaker@petersonbaker.com
BENJAMIN K. REITZ, ESQ.,
Nevada Bar No. 13233
breitz@petersonbaker.com
10001 Park Run Drive
Las Vegas, NV 89145
Telephone: 702.786.1001
Facsimile: 702.786.1002

By: /s/ Stephen G. Clough
JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
jag@mgalaw.com
STEPHEN G. CLOUGH, ESQ.
Nevada Bar No. 10549
sgc@mgalaw.com
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Telephone: 702.629.7900
Facsimile: 702.629.7925

Attorneys for Defendants Cambrex Charles City, Inc. and Cambrex North Brunswick, Inc.

*Attorneys for Plaintiff H&H Pharmaceuticals,
LLC*

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

Dated: 11-1-2018